

HOUSE BILL REPORT

ESSB 6481

As Passed House - Amended:

March 3, 2004

Title: An act relating to governing class 1 racing associations' authority to participate in parimutuel wagering.

Brief Description: Governing class 1 racing associations' authority to participate in parimutuel wagering.

Sponsors: By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, Jacobsen, Deccio, Rasmussen and Honeyford).

Brief History:

Committee Activity:

Commerce & Labor: 2/19/04, 2/26/04 [DPA];

Finance: 3/1/04 [DPA(CL)].

Floor Activity:

Passed House - Amended: 3/3/04, 79-17.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Allows the Washington Horse Racing Commission (HRC) to authorize a class 1 racing association to conduct parimutuel wagering on imported simulcast races at satellite locations.
- Allows, until October 1, 2007, the HRC to authorize a class 1 racing association or its contractor to conduct advance deposit wagering in which individuals deposit funds to pay for wagers made in person, by telephone, or through communication by other electronic means.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; McMorris, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Kenney and McCoy.

Staff: Chris Cordes (786-7103).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Commerce & Labor. Signed by 6 members: Representatives Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives McIntire, Chair; and Hunter, Vice Chair.

Staff: Mark Matteson (786-7145).

Background:

Regulation of Horse Racing

The Washington Horse Racing Commission (HRC) is responsible for regulating horse racing in Washington. The HRC licenses racing facilities and the employees who participate in horse racing. It determines the place, time, and duration of race meets and is responsible for supervision of the race meets. Under the authorizing statute, wagering on horse races is authorized only by the parimutuel method.

Satellite Wagering

The HRC may authorize licensed racing associations to conduct parimutuel wagering at satellite locations. This wagering may be conducted only on the licensee's races and only during the licensee's race meet simultaneously with all parimutuel wagering activity conducted at the live racing facility. Only one satellite location may be approved in each county.

Simulcast Racing Programs

The HRC may allow a class 1 racing association to import simulcasts of horse races from out-of-state racing facilities for parimutuel wagering. The HRC may allow imported simulcast races of regional or national interest to be sent to satellite locations, generally limited to one per day. Other licensed racing associations may also be approved to import one simulcast race of regional or national interest on each live race day.

Parimutuel wagering is permitted on imported simulcast races only at a class 1 licensee's live racing facility and for not more than 14 hours in any 24-hour period or five days per week.

Class 1 racing associations are licensees that conduct at least 40 days of live racing during each 12-month period.

When provisions limiting simulcast wagering were changed in 1997 and 2001, these enactments stated that the new provisions did not establish a new form of gaming in Washington and that the statute did not allow gaming of any nature or scope that was prohibited before these enactments. The 2001 enactment also provided that if a state or federal court finds the increase in the number of imported simulcast races to be an expansion of gaming, the 2001 act is void.

Advance Deposit Wagering (ADW)

ADW is permitted in at least 16 other states as a form of parimutuel wagering in which an individual deposits money in an account to be used to pay for wagers made by the individual. In some states, this activity is permitted over the telephone, but not using the Internet (Kentucky, Maryland, New York, and Pennsylvania). Other states permit the activity using any telephonic or electronic means, but may place other limits on the activity, such as prohibiting the use of credit (Idaho, Massachusetts, and New Jersey) or requiring verification of the individual's identity and age (California, Ohio, and Wyoming).

Summary of Amended Bill:

Satellite Wagering

The HRC may permit only class 1 licensees to conduct parimutuel wagering at satellite locations. To participate, the class 1 licensee must have conducted at least one full live racing season and must hold a live race meet within each succeeding 12-month period to maintain eligibility to continue participating.

Class 1 licensees may be approved to disseminate imported simulcast race card programs to satellite locations if the licensee has conducted at least 40 days of live racing with an average on-track handle of at least \$150,000 per day during the 12 months preceding the application. The HRC may by rule reduce the on-track handle requirement to \$30,000 to promote a new class 1 racing association facility and to meet the best interests of the equine breeding and racing industries.

Authority is deleted for licensed racing associations that are not class 1 licensees to import a simulcast race.

Various limits on the use of imported simulcast races are deleted, including the one-per-day limit on sending simulcast races to satellite locations. Provisions are also deleted that limit parimutuel wagering at satellite locations to the programs of the class 1 licensee, that require wagering at satellite locations to be conducted only during the licensee's live race meets, and that limit wagering on imported simulcast races to 14 hours in any 24-hour period and five days per week.

Commissioners of the HRC may not wager on horse races conducted under the HRC's authority.

Provisions enacted in 2001 are deleted that would have made the 2001 legislation void if a state or federal court made a finding that the increase in the authorized number of imported simulcast races was an expansion of gaming.

Advance Deposit Wagering (ADW)

Until October 1, 2007, the HRC is permitted to authorize ADW when conducted by a licensed class 1 racing association operating a live horse racing facility or by an operator of an ADW who accepts wagers under an HRC-approved agreement with a licensed class 1 racing association. ADW is a form of parimutuel wagering in which an individual deposits money in

an account to be used to pay for parimutuel wagers made in person, by telephone, or through communication by other electronic means.

To participate in ADW, the class 1 licensee must have conducted at least one full live racing season and must complete a live race meet within each succeeding 12-month period to maintain eligibility to continue participating. ADW may be accepted for races conducted in Washington under a class 1 license or for races not conducted in Washington on a schedule approved by the class 1 licensee.

When more than one class 1 licensee participates in ADW, the moneys paid must be allocated among the associations in proportion to the gross amount of all parimutuel wagering derived from the live race meets during each 12-month period. Revenue derived from ADW for the races of a particular class 1 licensee must be allocated to that licensee.

An entity authorized to conduct advance deposit wagering: may accept such wagering for races conducted in this state under a class 1 license or races not conducted in this state on a schedule approved by the class 1 licensee. ADW systems in or outside Washington may not accept wagers from Washington residents or other individuals located in Washington. Residents or other individuals located in Washington may not place wagers through unauthorized advance deposit wagering systems; may not accept an account wager that exceeds the funds on deposit; may not allow an individual under the age of 21 to open or have access to an ADW account; must include in advertising a statement that individuals under the age of 21 are not allowed to open or have access to an ADW account; and must verify the identity, residence, and age of the ADW account holder.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Commerce & Labor) Washington is not getting its share of the parimutuel wagering that is occurring in this state. This affects everyone in the industry, including the fair tracks and the community events they are associated with. Unless the situation is changed, the industry will continue to die, with a significant risk of losing the horse racing and horse breeding industry in Washington. The racing industry cannot continue operating in the red indefinitely. At least 7,500 jobs could potentially be impacted, directly or indirectly. Many of these jobs are held by Latinos. The backside jobs include many benefits these employees would not have otherwise, such as child care and certain types of health care. All of these jobs and the associated benefits are dependent on the handle that comes through wagering. Local communities benefit economically by the various expenditures that horse breeders and others in the industry make, and all these businesses depend on live racing and the purses that are available.

The erosion in wagering at the track is in a downward spiral even though Internet wagering is illegal in Washington. While the handle that goes through Oregon is nearly \$1 billion and increasing, the handle at Emerald Downs is falling even though attendance is up. One

Internet provider reports that Washington is seventh in the country in the amount of wagers but sixtieth in purses. Simulcast wagering is not the entire answer. To ensure that live racing is sustained, the bill sets a threshold of \$150,000 in handle from live racing to be eligible to participate in Internet parimutuel wagering. The state should not want to become simply a simulcast wagering haven. But allowing simulcast wagering at the off-track betting locations will enable fans from eastern Washington to continue following racing, without going to Oregon, after the live racing season closes in Washington. It also benefits those who live north of Seattle and find that the commute makes it difficult to get to the track, even to watch their own horses race. Some of these people quit wagering rather than do it illegally. Policing can be improved when the Internet providers are approved by the HRC and contracts are negotiated with these providers.

There is no intent to promote an expansion of Internet gambling, but only to keep at home the amounts already being wagered in parimutuel wagering in this state. The original bill was amended in the Senate to remove the extra satellite locations that were considered by some to be an expansion of gambling. It is not clear what Indian tribes might gain by trying to compete with the authorized Internet wagering hubs through compact arrangements. There are no court cases that directly address the impact of Internet parimutuel wagering on negotiating tribal compacts. This has not been an issue in other states that allow Internet parimutuel wagering.

Testimony For: (Finance) The Horse Racing Commission supports this measure. This bill would assist the horse racing industry. Needed revenue would be disseminated to horse owners, breeders, small and non-profit tracks, and others.

Testimony Against: (Commerce & Labor) None.

Testimony Against: (Finance) None.

Persons Testifying: (Commerce & Labor) (In support) Senator Hewitt, prime sponsor; Jim Halstrom, Ron Crockett, and Susie Sourwine, Emerald Downs; Hartly Kruger and Robert Leichner, Washington State Horse Racing Commission; Mary Lou Griffen, Claudia Atwell Canouse, Fred Papst, and Jerry Woods, Washington Thoroughbred Breeders Association; and Mary Ann O'Connell, Washington Horsemen's Benevolent Protection Association.

(Information only) Ed Fleisher, Washington State Gambling Commission.

Persons Testifying: (Finance) Robert Leichner, Washington Horse Racing Commission.

Persons Signed In To Testify But Not Testifying: (Commerce & Labor) None.

Persons Signed In To Testify But Not Testifying: (Finance) None.